

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 35348

**CSX TRANSPORTATION, INC. AND DELAWARE AND HUDSON
RAILWAY COMPANY, INC. – JOINT USE AGREEMENT**

**JOINTA GALUSHA LLC AND PALLETTE STONE CORPORATION
FIRST SET OF INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
CSX TRANSPORTATION, INC.**

John P. Davidson
P.O. Box 4550
Saratoga Springs, NY 12866
Vice President
Jointa Galusha LLC and Pallette Stone Corp.

Dated: June 11, 2010

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 35348

**CSX TRANSPORTATION, INC. AND DELAWARE AND HUDSON
RAILWAY COMPANY, INC. – JOINT USE AGREEMENT**

**JOINTA GALUSHA LLC AND PALLETTE STONE CORPORATION'S
FIRST SET OF INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
CSX TRANSPORTATION, INC.**

Pursuant to 49 C.F.R. § 1114.26 and § 1114.30, and the decision of the Surface Transportation Board in this proceeding, served May 27, 2010, Jointa Galusha LLC and Pallette Stone Corp. hereby submits their First Set of Interrogatories and Requests for Production to CSX Transportation, Inc. ("CSXT") (the "Discovery Requests"). CSXT's responses to the Discovery Requests should be delivered to John P. Davidson, Jointa Galusha, LLC/Pallette Stone Corp. P.O. Box 4550, Saratoga Springs, NY 12866 as soon as possible but no later than June 25, 2010. CSXT is requested to contact the undersigned promptly to discuss any objections or questions regarding these Discovery Requests with a view to resolving any dispute or issues of interpretation informally and expeditiously.

I. DEFINITIONS

1. "All" or "any" means each and every.
2. "Applicants" shall refer to CSX Transportation, Inc. and Delaware and Hudson Railway Company, Inc.
3. "Application" means the Application (CSXT-2/D&H-2) filed by Applicants in STB Finance Docket No. 35348 on April 27, 2010.
4. "Board" or "STB" means the Surface Transportation Board and its predecessor agency, the Interstate Commerce Commission, if applicable.
5. "Consultant" means any entity, individual, or group of individuals, including but not limited to any advisors, investment bankers, financial analysts, industry analysts, and/or industry experts, retained or otherwise consulted with by one or more of the Applicants for purposes of analyzing the proposed Transaction or the effects of the proposed Transaction.
6. "CSXT" shall refer to CSX Transportation, Inc. its predecessors, parents, subsidiaries, and affiliated entities, and the controlling shareholders, officers, directors, employees, agents, financial advisors, consultants, attorneys, representatives, predecessors, successors and assigns of each such entity and any person acting on behalf of the foregoing.
7. "D&H" shall refer to Delaware and Hudson Railway Company, its predecessors, parents, subsidiaries, and affiliated entities, and the controlling

shareholders, officers, directors, employees, agents, financial advisors, consultants, attorneys, representatives, predecessors, successors and assigns of each such entity and any person acting on behalf of the foregoing. All requests for CSXT documents encompass requests for documents in the possession, custody, or control of each of these entities.

8. "Describe" when used in relation to a discussion, meeting, or other communication means to identify the participants, the date or time period when the communication took place, the location of the participants at the time of the communication and a detailed summary of the content of the communications.

9. "Document" means any writing or other compilation of information (including electronically stored information and its metadata), whether printed, typed, handwritten, recorded, or produced or reproduced by any other process, and whether or not claimed to be privileged or confidential, including but not limited to: intracompany communications; electronic databases; electronic mail ("e-mail"); correspondence; telegrams; memoranda; contracts; instruments; studies; projections; forecasts; summaries; notes or records of conversations or interviews; minutes, summaries, notes, or records of conferences or meetings; records or reports of negotiations; diaries; calendars; photographs; maps; tape recordings; computer tapes; computer disks; other computer storage devices; computer programs; computer printouts; computer

models; statistical statements; graphs; charts; diagrams; plans; drawings; brochures; pamphlets; news articles; reports; advertisements; circulars; trade letters; press releases; invoices; receipts; financial statements; accounting records; and workpapers and worksheets. Further, the term "document" includes:

- a. both basic records and summaries of such records (including computer runs); and
- b. both original versions and copies that differ in any respect from original version, including notes.

10. "Identify"

- a. when used in relation to an individual, means to state the name, address, and business telephone number of the individual, the job title or position and the employer of the individual at the time of the activity inquired of, and the last-known position and employer of the individual;
- b. when used in relation to a corporation, partnership, or other entity, means to state the name of the entity and the address and telephone number of its principal place of business;
- c. when used in relation to a document means to:
 - (1) state the type of document (*e.g.*, letter, e-mail, memorandum, report, chart);

- (2) identify the author, each addressee, and each recipient; and
 - (3) state the number of pages, title, and date of the document;
- d. when used in relation to an oral communication or statement means to:
 - (1) identify the person making the communication or statement and the person, persons, or entity to whom the communication or statement was made;
 - (2) state the date and place of the communication or statement;
 - (3) describe in detail the contents of the communication or statement; and
 - (4) identify all documents that refer to, relate to or evidence the communication or statement;
- e. when used in any other context means to describe or explain in detail.

11. "Haulage Rights" refers to these provisions of the Joint Use Agreement appended as Exhibit 2 to the Application that provide for CSXT to handle rail cars in D&H's account over the Trackage Rights Route.

12. "Including" means including without limitation.
13. "Joint Use Agreement" means the Joint Use Agreement attached as Exhibit 2 to the Application.
14. "New York Metro Area" when used in relation to rail traffic shall refer to rail traffic moving to or from stations in the Boroughs of Queens, Brooklyn and The Bronx, NY, and in Nassau and Suffolk Counties, NY.
15. "NYA" shall refer to New York & Atlantic Railway Company.
16. "JG/PAL" shall refer to Jointa Galusha, LLC & Palette Stone Corporation.
17. "Oak Point Switching Agreement" shall refer to the switching agreement between D&H and CSXT whereby CSXT handles rail cars in D&H's account to and from customers in the Boroughs of Queens and The Bronx, NY, and for interchange with NYA at Fresh Pond Junction, NY.
18. "Person" means an individual, company, partnership, or other entity of any kind.
19. "Produce" means to make available for copying and viewing.
20. "Relate to" or "relating to" means concerning, referring to, relating to, describing, evidencing or constituting.
21. "Shipper" means a user of rail services, including a consignor, a consignee, or a receiver.

22. "Studies, analyses and reports" include studies, analyses, and reports in whatever form, including letters, memoranda, tabulations, and computer printouts of data selected from a database.
23. "Trackage Rights" shall refer to D&H's trackage rights over the CSXT rail line from Schenectady, NY to Oak Park, NY and from Oak Park Yard to Fresh Pond Junction, NY.
24. "Trackage Rights Route" shall refer to the rail line of CSXT from Schenectady, NY to Oak Park Yard, NY and from Oak Park Yard to Fresh Pond Junction, NY (including any portions of such route over lines of Metro North Commuter Railroad or other lines of third parties).
25. "Transaction" means the series of transactions described in, and encompassed by, the Application (CSXT-2/D&H-2) filed by the Applicants in this proceeding on April 27, 2010.

II. INSTRUCTIONS

1. Applicants should contact the undersigned immediately to discuss any objections or questions with a view to resolving any dispute or issues or interpretation informally and expeditiously. Objections, if any, should be made as soon as possible, and not later than June 25, 2010. Serial production of responsive documents during that fourteen-day period is encouraged and requested.

2. Unless otherwise specified, these Discovery Requests cover the period beginning January 1, 2007, and ending with the date of the response.

3. If the Applicants have information that would permit a partial answer to any interrogatory, but it would have to conduct a special study to obtain information necessary to provide a more complete response to that discovery request, and if the burden of conducting such special study would be greater for Applicants than for NYA:

- a. state that fact;
- b. provide the partial answer that may be made with information available to Applicants;
- c. Identify such business records, or any compilation, abstract, or summary based thereon, as will permit the undersigned parties to derive or ascertain a more complete answer; and
- d. as provided in 49 C.F.R. § 1114.26(b), produce such business records, or any compilation, abstract, or summary based thereon, as will permit the undersigned parties to derive or ascertain a more complete answer.

4. If any information is withheld on the ground that is privileged or otherwise not discoverable, CSXT shall provide a statement signed by an attorney representing CSXT setting forth as to each such document the nature of

the privileged information and the justification for the claim of privilege in sufficient detail to permit an assessment of whether the assertion of privilege is valid.

5. Pursuant to 49 C.F.R. § 1114.29, Applicants are under a duty to seasonably supplement its responses with respect to any discovery request, including if Applicants know or later learn that its response to any discovery request is incorrect.

6. As to each interrogatory, identify the person(s) who provided the information used in Applicants' response to the inquiry.

7. The present tense shall be construed to include the past tense and the past tense shall be construed to include the present tense as necessary to bring within the scope of these Discovery Requests any information that might otherwise be construed to be outside of their scope.

8. The singular shall be construed to include the plural and the plural shall be construed to include the singular as necessary to bring within the scope of these Discovery Requests any information that might otherwise be construed to be outside their scope.

9. "And" or "or" shall be construed disjunctively or conjunctively as necessary to make these Discovery Requests inclusive rather than exclusive.

10. Whenever a Discovery Request calls for the identification or the identity of a person, the identification should include his or her full name and present or last known business address and current telephone number. If a business address is not known, provide a home address. The identification also should include the person's most recent known occupation (including title and job description) and most recent known employer. Whenever the person identified is a business or a government entity or firm, state the full name of the entity or firm and the address of its principal place of business.

III. INTERROGATORY

Interrogatory No. 1.

Identify all haulage arrangements currently in effect between CSXT and any other railroad, and the haulage fee paid/received by CSXT (on a per car or similar basis) under each such arrangement.

IV. REQUESTS FOR PRODUCTION

Request for Production No. 1.

Produce all documents identified in, related to, consulted, reviewed, or relied upon in making, or otherwise supporting, any of CSXT's responses to the Interrogatory set forth above.

Request for Production No. 2.

Produce all traffic studies, market studies or analyses, cost studies, operating plans, financial projections and reports (including work papers) prepared by or for CSXT employees or its Consultants in connection with the proposed handling by CSXT of D&H traffic over the Trackage Rights Route pursuant to the Joint Use Agreement.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Davidson", is written over a horizontal line.

John Davidson
Vice President
Jointa Galusha LLC
Palette Stone Corporation
P.O. Box 4550
Saratoga Spring, NY 12866

Dated: June 11, 2010

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of June 2010 a true and correct copy of Jointa Galusha LLC and Palette Stone Corporation's First Set of Interrogatories and Requests for Production is being served by first-class mail, postage prepaid, on the following:

Terence M. Hynes
Sidley Austin LLP
1501 K Street, N.W.
Washington, DC 20005

Louis E. Gitomer
Law Offices of Louis E. Gitomer, LLC
600 Baltimore Avenue, Suite 301
Towson, Maryland 21204

I further hereby certify that on this 11th day of June 2010 a true and correct copy of Jointa Galusha LLC and Palette Stone Corporation's First Set of Interrogatories and Requests for Production is being served by first-class mail, postage prepaid, on the following:

Secretary of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Attorney General of the United States
c/o Assistant Attorney General
Antitrust Division, Room 3109
Department of Justice
Washington, DC 20530



John Davidson